

DEPARTMENT OF STATE REVENUE

**LETTER OF FINDINGS NUMBER: 02-0345P
Adjusted Gross and Supplemental Net Income Tax
For Calendar Year 1998**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

II. Tax Administration – Interest

Authority: IC 6-8.1-10.1

Taxpayer protests the interest assessed.

STATEMENT OF FACTS

Taxpayer protests the penalty and interest assessment for the late payment of its income tax. The due date of the return was April 15, 1999. Taxpayer filed its return late on October 14, 1999 with payment of approximately seventy percent (70%) of its tax liability. Taxpayer made no payment at the time of filing its extension request.

Taxpayer filed a penalty and interest protest letter dated June 20, 2002 and a FAX on July 18, 2002 requesting a hearing. On September 18, 2002, taxpayer stated that an amended return had been filed for the year at issue that results in a refund. A copy was faxed to the hearing officer prior to hearing.

At issue is the original return filed on October 14, 1999 that carries a late payment penalty.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed and states that it inadvertently under projected estimated tax payments and it regrets the oversight that has occurred. Taxpayer states that it had expanded warehousing operations, overpaid taxes in prior years, had problems with its systems, and is not a problem taxpayer.

Taxpayer did not make full payment by the original due date of the return. Approximately seventy percent of the tax due was paid on October 14, 1999 or after the due date of the return. An extension to file is not an extension for payment.

Taxpayer has not provided reasonable cause to allow the Department to waive the penalty.

FINDING

Taxpayer's protest is denied.

II. Tax Administration – Interest

DISCUSSION

Taxpayer protests the interest assessed from April 15, 1999 to the current date. Taxpayer states that it paid its taxes in full by October 15, 1999 and calculated interest from the period of April 15, 1999 to October 15, 1999 for a total of \$ 5,623.80 which it remitted with its protest letter.

Under current law, the Department has three years from the due date of the return or three years after the filing of the return to make additional assessments. Payments are applied to Penalty, Interest, and Tax, in that order and interest continues to accrue until final payment is made. The Department has no statutory authority to waive interest.

FINDING

Taxpayer's protest is denied.